

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

SOLOMON S. KENNEDY,

PLAINTIFF

V.

NO. 4:07CV0187-P-B

CHRISTOPHER B. EPPS, et al.,

DEFENDANTS

CONSOLIDATED WITH

SOLOMON S. KENNEDY,

PLAINTIFF

V.

NO. 4:08CV040-M-B

CHRISTOPHER B. EPPS, et al.,

DEFENDANTS

**ORDER OVERRULING OBJECTIONS and ADOPTING
REPORT AND RECOMMENDATION**

The *pro se* Plaintiff, an inmate, brings this complaint pursuant to 42 U.S.C. § 1983. Plaintiff complains that he was attacked by gang members and suffered a broken jaw. Plaintiff attempted to state claims for failure to protect and denial of medical treatment. Plaintiff was afforded the opportunity to clarify and specifically state his claims at a *Spears* hearing. Following the *Spears* hearing, Magistrate Judge Eugene M. Bogen filed a Report and Recommendation on May 23, 2008, recommending dismissal of all but one of Plaintiff's claims. The Magistrate Judge suggests that Plaintiff has stated a claim for failure to protect only as that claim arises from a theory of "pervasive violence." On June 6, 2008, Plaintiff filed Objections to the Report and Recommendation.

The court finds that Plaintiff's arguments are not well-taken and that the objections should be overruled for the reasons stated in the Report and Recommendation, which the court approves and adopts as its opinion.

THEREFORE, it is hereby ORDERED that

1) the Plaintiff's objections to the Report and Recommendation of the United States Magistrate Judge are OVERRULED;

2) the Report and Recommendation is APPROVED and ADOPTED as the opinion of this court;

3) Plaintiff's claims for denial of medical treatment and failure to protect arising from the attack on January 13, 2007, are DISMISSED with prejudice; and

4) Plaintiff's claim regarding the failure to protect based on the theory of "pervasive violence" at Unit 29 at MSP shall proceed.

SO ORDERED, this the 9th day of June, 2008.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE